

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 3/19/02.

## **I. DISPUTE**

Whether there should be reimbursement for a water circulating unit E0236 NU, cold therapy cooler wrap E1399, water circulating pad E1399 and pain management system E0781 dispensed on 12/13/01.

## **II. FINDINGS**

Per the carrier response, the carrier accepted a right torn rotator cuff injury at a Benefit Review Conference (BRC) on 4/9/02 as compensable. The denial from the carrier is "R" - not related to the compensable injury. No EOBs were submitted by either the carrier or requestor indicating the disputed bills had been re-reviewed after the 4/9/02 BRC. Therefore, the "R" denial is no longer appropriate and the disputed services will be reviewed based upon the 1996 Medical Fee Guideline.

## **III. RATIONALE**

The 1996 Medical Fee Guideline, DME Ground Rules (IV) states, "This document does not contain a specific MAR for the DME items. The DME items should be billed at the usual and customary rate of the DME provider, and the insurance carrier shall reimburse the DME provider at an amount pre-negotiated between the provider and carrier or, if there is no pre-negotiated amount, the fair and reasonable rate for the item described. Use the miscellaneous HCPCS code, E1399 when no other HCPCS code is present for the DME or supplies provided to the injury worker. When using E1399, a description of the unlisted equipment/supply is required." Per DME Ground Rules (IX)(C), "A fair and reasonable reimbursement shall be the same as the fees set for the "D" codes in the 1991 Medical Fee Guideline."

None of the disputed services were found among the "D" codes of the 1991 Medical Fee Guideline; therefore, all disputed services are due at the fair and reasonable rate.

The cold therapy cooler wrap E1399 and water circulating pad E1399 were, according to DME Ground Rules (IV), to include a description of the unlisted equipment and none was provided. On this basis, reimbursement is not recommended for either DME.

Commission Rule 133.307 (g)(3)(D) states, " if the dispute involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §133.1 of this title (relating to Definitions) and §134.1 of this title (relating to Use of the Fee Guidelines);"

The water circulating unit E0236 NU and pain management system E0781 were payable at fair and reasonable. However, the requestor failed to submit, any documentation supporting that the charges were fair and reasonable. On this basis, reimbursement is not recommended.

#### **IV. DECISION**

Based upon the review of the disputed healthcare services within this request, the Division has determined the requestor **is not** entitled to reimbursement for a water circulating unit E0236 NU, cold therapy cooler wrap E1399, water circulating pad E1399 and pain management system E0781 dispensed on 12/13/01.

The above Findings and Decision are hereby issued this 31st day of October 2003.

Noel L. Beavers  
Medical Dispute Resolution Officer  
Medical Review Division

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